



**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.712/LKW/2025  
Assessment Year: 2018-19

<b>Balaji Educational Welfare Society</b> Balaji Public School Near Railway Station Nawabganj, Barabanki-225001. <b>PAN:AACAB8487H</b> (Appellant)	v.	<b>Assessing Officer, CPC</b> Lucknow-226001.  (Respondent)
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Appellant by:	Shri Sharad Srivastava, C.A.
Respondent by:	Shri R. R. N. Shukla, Addl. CIT(DR)

**ORDER**

**PER ANADEE NATH MISSHRA, A.M.:**

(A). This appeal vide I.T.A. No.712/LKW/2025 has been filed by the assessee for assessment year 2018-19 against impugned appellate order dated 23.09.2025 (DIN & Order No.ITBA/APL/S/250/2025-26/1081029662(1) of Ld. Addl/JCIT Commissioner of Income Tax (Appeals), the First Appellate Authority. The grounds of appeal are as under:

*“1. The Ld. Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order, which is unlawful, unjustified and against the principles of natural justice.*

*2. The Ld. Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order without giving adequate opportunity of being heard.*

*3. The Ld. Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order without considering the exemption u/s 10(23C)(iiia) of income tax act 1961 and made addition of Rs.9427096 during AY 2018-19.*

*4. The Ld. Commissioner of Income-tax (Appeal) has erred in law and on facts in passing assessment order which is contrary to the facts and law.*

5. *The appellant craves leaves to add, amend, alter or withdraw any ground or appeal or raise any new ground of appeal during the pendency of appeal.*”

(B) In this case, the return filed by the assessee was processed u/s 143(1) of Income Tax Act, 1961 (“Act”, for short) and intimation dated 04.05.2020 was issued to the assessee u/s 143(1) of I.T. Act wherein adjustment was made and the assessee’s total income was determined at 94,27,096/- as against returned income of Rs. Nil. The aforesaid adjustment of Rs.94,27,096/- was made disallowing assessee’s claim for exempted income. The assessee filed application for rectification u/s 154 of I.T. Act, submitting that there was an inadvertent typographical mistake in wrongly making claim of exempted income u/s 10(23C)(iv) instead of the correct section 10(23C)(iiiad) of I.T. Act. The aforesaid application for rectification order u/s 154 of the Act was rejected vide order dated 22.06.2020 and the aforesaid addition of Rs.94,27,096/- was retained. The assessee filed appeal against the aforesaid order dated 22.06.2020 in the office of the Ld. CIT(A), vide impugned appellate order dated 23.09.2025. The assessee’s appeal was dismissed by the Ld. CIT(A) by observing as under: -

*“In regards to the grounds of appeal, CPC has rightly disallowed the claim of 10(23C)(iv) claimed by the appellant which is incorrect. This error in filing the ITR is accepted by the appellant in its submission. CPC has rightly acted within its purview of law, as the denial of exemption is due to the error of the appellant in filing of the return. For rectifying the error in the ITR, there are legal remedies available for eg. Revising the return with in time, if beyond time revising the return with condonation from the jurisdictional PCIT/CCIT as mandated by the CBDT guidelines. Appellant may explore such legal remedies available to it. Neither the AO-CPC nor the JC appeals can condone the delay of revising the return or alter the data filed in the ITR.”*

(B.1) The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 23.09.2025 of the Ld. CIT(A). In the course of appellate proceedings in Income Tax Appellate Tribunal (ITAT), a paper book containing the following particulars was filed from the assessee’s side: -

S. No.	PARTICULARS
1	Annexure-1 Society Certificate, MOA and ACA
2	Annexure-2 affiliation certificate from Zila Basic Shiksha Adhikari
3	Annexure-3 Financial Statements for FY 2017-18 Relevant to AY 2018-19
4	Annexure-4 Intimation order for AY 2019-20
5	Income tax case in favour of assessee
A	ITAT, Lucknow in the case of Desh Bharti public School Samiti vs DCIT (2022) 139 taxmann.com 231 (Luck)
B	ITAT, Kolkata The University of Burdwan vs ACIT [ITA No.362/Kol/2022 Assessment Year: 2018-19]

(B.2) Moreover, written submission were and are being reproduced below, for the ease of reference: -

The following written submissions are being made in respect of the aforesaid appeal in addition to the oral submissions to be made at the time of hearing of appeal:

**Ground Nos.1,2,3and 4**

1. The Learned ADDL/Joint Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order which is illegal, improper and against the principles of natural justice.
2. The Ld. ADDL/Joint Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order without giving adequate opportunity of being heard.
3. The Ld. ADDL/Joint Commissioner of Income-tax (Appeal) has erred in law and on facts in passing the order without considering the exemption u/s 10(23C)(iiiad) of income tax act 1961 and made addition of Rs 94,27,096/-

4. The Ld. ADDL/Joint Commissioner of Income-tax (Appeals) has erred in law and on facts in passing assessment order which is contrary to the facts and law.

**Ground No-1 ,2 and 4 are general grounds which have been dealt with while dealing with other grounds of appeal.**

In the Light of above our reply is under-

**Ground No-3**

“The Learned ADDL/Joint Commissioner (appeal) has erred in law and on facts in passing the order without considering the exemption u/s 10(23C)(iiiad) of income tax act 1961 and made addition of Rs 94,27,096/- during AY 2018-19.”

**Brief Facts of the case-**

M/s Balaji Educational Welfare society is Educational Society. Appellate society has engaged in running of School . Appellate Society had filed income tax return during AY 2018-19 for claiming the exemption u/s 10(23C)(iiiad) of income tax act 1961 on 04/08/2018. But Appellate society had selected section 10(23C)(iv) in place of section 10(23C)(iiiad) of Income tax act 1961 at time of filing of ITR u/s 139(1) of income tax act 1961. Assessing officer , CPC had processed the ITR u/s 143(1) 10.03.2020. Assessee could not filed the revised ITR because March 2020 was covid period and Many places school city were closed due to Covid.

Appellate Society had filed the Rectification Request u/s 154 on 19/05/2020 with correct section u/s 10(23C)(iiiad) . Screen short of Rectified ITR is-

Details of the projects / institutions run by you											
Sl.No.	Name of the project / institution (see instruction para 11ca)	Address	Nature of activity (see instruction para 11d)	Classification (see instructions para 11d)	Aggregate annual receipts or approval	Date of registration or approval	Section under which registered or approved	Approval/ Notification/ Registration No.	Approving/ registering Authority	Section under which exemption claimed, if any (see instruction para 11e)	Section
1	BALAJI EDUCATIONAL WELFARE SOCIETY	BALAJI PUBLIC SCHOOL, NARAIN PUR, BARABANKI	Charitable	Education	9476731	28/07/2012	Others- 1023c	RULE2BC	RULE2BC	Section 10(23C) (iiad)	

but Assessing officer CPC had not consider above Rectification and passed the income tax order on 22/06/2020 .

Therefore Assessee had Preferred filed appeal u/s 246A of Income tax act Bu Ld. ADDL/Joint Commissioner had confirmed the addition of assessing officer This Addition made by ADDL/Joint Commissioner without giving the persona hearing to Assessee.

In This regard we want to state that-

M/s Balaji Educational Welfare society is Educational Society . Appellate society s registered under Registrar of Society, Uttar Pradesh on 28/07/2012 . Appellate society is running educational institutions in the name of **Balaji Academy and Balaji Ka Bachpan** . Society is running above schools at Barabanki, Uttar Pradesh from Last many years.

We are enclosing copy of Society certificates as evidence of status of society and affiliation certificate from Zila Basic Shiksha Adhikari , barabanki for Balaj Academy and Balaji Ka Bachpan as evidence for running a school for your ready reference and kind consideration as **Annexure-1 (paper Book Page No- 1 to 10**

Appellate Society had filed Income tax return during AY 2018-19 on 04/08/2018 with claiming exemption u/s 10(23C)(iiiad) of act against aggregating annual receipts of Rs. 9476731/- . Appellate had selected section u/s 10(23C)(iv) instead of section 10(23C)(iiiad) of act at the time of filing of original return.

According to Financial Statements of Appellate , Appellate was expended revenue expenditure for running of school of Rs. 9427096- against the gross receipts of school of Rs. 9476731/-. Assessee had prepared Financial statements of society and school in proper manner . all expenses incurred by society for running of school . We are enclosing copy of financial statements for AY 2018-19 for your ready reference and kind consideration as **Annexure-3 (paper Book Page No- 17 to 31)**.

Appellate society had filed Income tax return during AY 2019-20 with claiming exemption under Section 10(23C)(iiiad) of Income tax act 1961, CPC - AO has allowed the exemption under Section 10(23C)(iiiad) .In this Regard we are enclosing Intimation u/s 10(23C)(iiiad) of Income tax act for your ready reference and kind consideration as **Annexure-4 (paper Book Page No- 32 to 44)**.

The said claim of exemption was rejected in the processing of the return by the Centralized Processing Centre (CPC), Bangalore vide intimation passed u/s. 143(1) of the Act dated 10.03.2020. Against the said processing, Appellate moved an application of rectification u/s. 154 of the Act on 19.05.2020 by making a correction towards the claim of exemption u/s.10(23C)(iiiad) of the Act as against eligible claim made u/s.10(23C)(iv) of the Act. The rectification application was rejected vide order dated 22.06.2020 . After that Appellate has filed appeal against the Rectification order passed by CPC .

**According to section 10(23C)(iiiad)-**

*“any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed;”*

Appellate society has claimed exemption u/s 10(23C)(iiiad) of income tax , society have fulfilled all conditions of section 10(23C)(iiiad) of income tax .

- a. The Educational Institution is not financed by the Government
  - b. The total annual receipt of the educational Institution is less than Rs. 100 lakh or 1 crore
  - c. The Educational Institution is solely for educational purpose.
4. The Institution is non-profitable-one

According to above conditions ,

A- Appellate society has running schools from Past several years , Assessee society is running Two Schools -

1. Bala Ji Ka Bachpan situated at S-507, Satyapremi Nagar , Barabanki , Class-8th
2. Balajee Academy situated at Mohammadpur Road , Uttar tola , Barabanki

B-Gross turnover of assessee society is up to 100 lakh

C-Assessee society have not finance by Government

D-Assessee society has engaged in educational activity during AY 2018-19.

According to above conditions Assessing officer can not denied the exemption u/s 10(23C)(iiiad) of income tax on the basis of coding wrong section in income tax return.

This mistake is mistake apparent from record which is rectifiable u/s. 154 of the Act merely because assessee has claimed exemption under a wrong provision to which it is otherwise entitled to. We submitted that Ld. AO ought to have accepted the apparent mistake by accepting the claim u/s. 10(23C)(iiiad) of the Act. In this respect, We also referred to the **CBDT Circular No. 14 (XL35) of 1955 dated 11.04.1955** and submitted that it is the duty of the officers of the department to assess the tax payer in every reasonable way, particularly in the matter of claiming and securing relief and in this regard the officers should take initiative in guiding a taxpayer where the proceedings before them indicate that some refund or relief is due to him. He also stated that it is mandated that the officers of the department should not take advantage of ignorance of an assessee as to his rights.

In this regard Assessee has placed reliance on the following decision-

**ITAT, Lucknow in the case of Desh Bharti public School Samiti Vs. DCIT (2022) 139 taxmann.com 231 (Luck)-**

"Where assessee, a trust, in earlier years had been claiming exemption under section 10(23C) and it got registration under section 12 A on 2.9. 2014 and it in return filed for assessment year 2014-15 claimed exempt income under section

human error and thus Assessing officer was to be directed to allow exemption under section 12 A."

**ITAT, KOLKATA The University of Burdwan Vs. ACIT IITA No.362/Kol/2022 Assessment Year: 2018-19]**

**It was held that-** "We have heard the rival submissions, perused the material available on record and gone through the documents placed in the paper book referred by the Ld. Counsel. Admittedly, it is undisputed that assessee had been imparting education and has been claiming exemption u/s.10(23C)(iiiab) of the Act which has been considered and allowed in the preceding as well as in the subsequent assessment years vis-à-vis the impugned year under consideration either in the intimation issued u/s. 143(1) of the Act or assessment completed u/s. 143(3) of the Act. Ld. Counsel has evidently demonstrated that it was an inadvertent mistake which occurred at the end of the assessee in the filing of return where the claim of exemption was made u/s. 10(23C)(vi) of the Act instead of section 10(23C)(iiiab) of the Act. It is also noted that upon receiving intimation u/s. 143(1) of the Act wherein the inadvertent claim made u/s. 10(23C)(vi) was disallowed and remedial measure was taken by the assessee by filing an application u/s. 154 for rectifying the mistake by making a claim under the correct section of sec. 10(23C)(iiiab) of the Act. We note that assessee had been consistently claiming exemption u/s. 10(23C)(iiiab) of the Act. Considering the ITAT Lucknow in the case of Desh Bharti public School Samiti (supra), we note that mistake apparent from record is rectifiable under the provisions of section 154 of the Act which in the present case ought to have been allowed as claimed by the assessee. **Accordingly, we set aside the finding of the Ld. CIT(A) and direct the Ld. AO to allow the claim of the assessee by applying the provisions of section 10(23C)(iiiab) of the Act. Accordingly, grounds taken by the assessee in this respect are allowed.**"

We are enclosing both income tax cases for your ready reference and kind consideration as **Annexure-5 (paper Book Page No- 45to 58)**..

Further We want to state that-

**A-The Learned ADDL/Joint Commissioner of Income-tax (Appeal) has confirmed the addition on the basis of JC appeals can not condone the delay of revising the return or alter the data filed in the ITR.**

In this Regard JC appeals said in appellate Order-

*Para-6.2. In regards to the grounds of appeal, CPC has rightly disallowed the claim of 10(23C)(iv) claimed by the appellant which is incorrect. This error in filing the ITR is accepted by the appellant in its submission. CPC has rightly acted within its purview of law, as the denial of exemption is due to the error of the appellant in filing of the return. For rectifying the error in the ITR, there are legal remedies available for eg. revising the return with in time, if beyond time revising the return with condonation from the jurisdictional PCIT/CCIT as mandated by the CBDT guidelines. Appellant may explore such legal remedies available to it. Neither the AO-CPC nor the JC appeals can condone the delay of revising the return or alter the data filed in the ITR.*

In this regard we want to state that Income tax guidelines are primarily established to provide a **legal framework** for the government to raise revenue, regulate the economy, and ensure social equity. They outline the mandatory rules for calculating, collecting, and administering the direct tax on income earned by individuals and entities.

According to Article 265 , Indian Constitution Act lays down that no tax shall be levied except by authority of law. Hence only legitimate tax can be recovered and even a concession by a tax-payer does not give authority to the tax collector to recover more than what is due from him under the law.

According to **CBDT Circular No. 14 (XL35) of 1955 dated 11.04.1955-**

Officers of the Department must not take advantage of ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard the Officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. This attitude would, in the long run, benefit the Department for it would inspire confidence in him that he may be sure of getting a square deal from the Department. Although, therefore, the responsibility for claiming refunds and reliefs rests with assessee on whom it is imposed by law, officers should

(a) Draw their attention to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other;

(b) Freely advise them when approached by them as to their rights and liabilities and as to the procedure to be adopted for claiming refunds and reliefs."

B- Learned ADDL/Joint Commissioner of Income-tax (Appeal) had passed the Income tax order u/s 250 without giving the personal hearing before disposing the appeal . -It Means Learned ADDL/Joint Commissioner of Income-tax (Appeal) had passed the income tax order without follow the principal of natural justice.

In the Light of the above discussion /evidences and Judgments Kindly allow the exemption u/s 10(23C)(iiiad) of income tax act 1961 and delete the addition of assessing officer of Rs 94,27,096/-.

Prayer

It is most respectfully prayed that the Hon'ble INCOME TAX APPELLATE TRIBUNAL LUCKNOW BENCH-B, may kindly be pleased to:

- 1) Kindly allow the exemption u/s 10(23C)(iiiad) of income tax act and delete the addition of Rs 94,27,096/- .

Hoping this reply of mine may be treated as sufficient compliance of the letter given by your good self. However if there remains any query, sufficient time and opportunity may be given.

(C) At the time of hearing before us, the Ld. Authorized Representative for assessee placed reliance on the aforesaid written submissions. He drew our particular attention to CBDT Circular No.14 (XL35), dated 11.04.1955. He also placed reliance on the order of the Lucknow Bench of ITAT in the case of Desh Bharti Public School Samiti vs DCIT (2022) 139 taxmann.com 231 (Luck) vide order dated 05.04.2022 for A.Y. 2014-15 in ITA. No.09/LKW/2022. The relevant portion of this order is reproduced below: -

“2. The ld. AR at the outset submitted that the assessee has been claiming exemption u/s.10(23C) in the earlier years and during the year under consideration the assessee had got registration u/s. 12A of the Act and in this respect our attention was invited to P.B. pg. 24 where a copy of registration u/s. 12A dated 02.09.2014 effective from 1.4.2012. It was submitted that the assessee by mistake in the return of income filled the claim of exemption u/s.10(23C) of the Act as against u/s. 12A of the Act whereas the assessee had obtained the audit form in Form-10B as required u/s. 12A(b) and had uploaded the same along with return of income. It was submitted that the CPC on the basis of return filed by the assessee rejected the claim of the assessee u/s.10(23C) by holding that since the receipt of the assessee exceeded Rs.1.00 crore therefore the exemption u/s.10(23C) was available to the assessee only if the assessee had obtained necessary approval and which it had not obtained. The ld. AR submitted that assessee filed rectification application u/s. 154 which was also rejected and appeal filed before ld. CIT(A) was also rejected. The ld.AR submitted that since the assessee had by mistake claimed exemption under a wrong section and all other documentary evidences regarding existence of registration u/s. 12A and uploading of audit report u/s. 12A was available with the Revenue, there was necessarily a mistake apparent from record which the CPC should have rectified or in the alternative the ld. CIT(A) should have allowed the claim by the assessee. Therefore it was prayed that the appeal filed by the assessee may be allowed and Assessing Officer be directed to allow the claim of assessee u/s. 12A of the Act.

3. The ld. CIT (DR), on the other hand, submitted that filing of return is done by the professionals and therefore it cannot be accepted that the mistake had happened due to mistake by a Clerk. He submitted that since necessary approval has not been obtained and the receipt of the assessee exceeded Rs.1.00 crore therefore CPC had rightly rejected the claim u/s.10(23C) of the Act and since there was no mistake apparent from record, CPC has rightly rejected the same and ld. CIT(A) has rightly rejected the same as there was no mistake apparent from record.

4. We have heard the rival parties and have gone through the material placed on record. We find that it is undisputed fact that assessee got registration u/s.12A of the Act w.e.f. 1.4.2013 vide order dated 2.9.2014, a copy of such registration certificate is placed in P.B. pg.24. It is also an undisputed fact that assessee in the earlier years has been claiming exemption u/s.10(23C) of the Act and which was being allowed by the department also as the receipt of the assessee in the earlier years were less than Rs.1.00 crore. During the year under consideration, the assessee got the registration u/s.12A of the Act on 2.9.2014 and filed the income tax return on 20.9.2014. Along with filing of return of income, the assessee also uploaded Form-10B which is audit report u/s. 12A(b) of the Act. However, in the return of income, the assessee claimed exempt income u/s.10(23C) instead of claiming the same u/s.12A of the Act. The CPC rejected the claim of the assessee u/s.10(23C) by holding that the assessee had not obtained necessary approval from the prescribed authority and the receipts of the assessee exceeded Rs.1.00 crore. The application for rectification u/s.154 was also rejected and on appeal before ld. CIT(A), the ld. CIT(A) also dismissed the appeal of the assessee by first holding that there was no mistake apparent from record and further held that there is lot of difference between the claim of exemption u/s.10(23C) and Section 11 of the Act. However, nowhere in the appellate order the ld. CIT(A) disputed the fact that assessee was not registered u/s.12A of the Act. The registration certificate granted by the department on 2.9.2014 is on record. Further the uploading of Form-10B which is a audit report u/s.12A(b) of the Act, proves that the mistake committed by assessee in claiming exemption u/s.10(23C) is inadvertent mistake as by

committing such a mistake the assessee is not going to gain anything. Fact of the matter is that assessee is registered u/s.12A of the Act and is eligible for exemption u/s.11 of the Act. Therefore for inadvertent mistake the assessee cannot be penalized. Since the assessee has been claiming exemption u/s.10(23C) in the earlier years therefore during the year under consideration there is high probability that assessee again claimed exemption u/s.10(23C) by overlooking the fact that it had already got registration u/s.12A of the Act which in any case was available with the assessee before the filing of return of income. The mistake has occurred as a human error and should have been judicially considered. The CBDT vide Circular No.14 (XL35) dated 11.4.1955 in Para 3 has held as under:

*“Officers of the Department must not take advantage of ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard the Officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. This attitude would, in the long run, benefit the Department for it would inspire confidence in him that he may be sure of getting a square deal from the Department. Although, therefore, the responsibility for claiming refunds and reliefs rests with assessee on whom it is imposed by law, officers should:—*

*(a) Draw their attention to any refunds or reliefs to which they appear to be dearly entitled but which they have omitted to claim for some reason or other; (b) Freely advise them when approached by them as to their rights and liabilities and as to the procedure to be adopted for claiming refunds and reliefs.”*

*5. In view of above facts and circumstances, we direct the Assessing Officer to allow the exemption to the assessee u/s.12A of the Act in accordance with law.”*

(C.1) Moreover, the Ld. Authorized Representative for assessee also placed reliance on the order of the Lucknow Bench of ITAT in the case of The University of Burdwan vs ACIT in ITA. No.362/Kol/2022 vide order dated 24.11.2022. The relevant portion of this order is reproduced below: -

*“4. Brief facts of the case are that assessee is a University incorporated by the Burdwan University Act, 1981 by the West Bengal Legislative Assembly for imparting education. Return was filed on 22.10.2018 reporting NIL income by claiming exemption u/s. 10(23C)(vi) of the Act against aggregating annual receipt of Rs.113,13,24,059/-. The said claim of exemption was rejected in the processing of the return by the Centralised Processing Centre (CPC), Bangalore vide intimation passed u/s. 143(1) of the Act dated 20.03.2020. Against the said processing, assessee moved an application of rectification u/s. 154 of the Act on 30.07.2020 by making a correction towards the claim of exemption u/s. 10(23C)(iiiab) of the Act as against eligible claim made u/s. 10(23C)(vi) of the Act. The rectification application was rejected vide order dated 04.09.2020 against which assessee went in appeal before the Ld. CIT(A), NFAC, Delhi who had upheld the rejection of the claim made by the assessee u/s. 10(23C)(iiiab) of the Act vide its rectification application.*

5. Before us, Shri Somnath Ghosh, Advocate represented the assessee and Shri G. H. Sema, CIT, DR represented the revenue. 6. Before us, Ld. Counsel submitted that there is no dispute on the fact that assessee had been imparting education without any profit motive and is substantially financed by the Govt. of West Bengal. He further submitted that assessee had always claimed exemption u/s. 10(23C)(iiiab) of the Act on its receipt which has always been allowed. He also referred to the assessment order passed u/s. 143(3) of the Act dated 13.12.2019 for AY 2017-18 wherein assessee had claimed exemption u/s. 10(23C)(iiiab) of the Act which was considered in the said assessment proceedings. He also referred to the assessment order for AY 2016-17 passed u/s. 143(3) of the Act dated 03.12.2018 wherein also assessee's claim of exemption u/s. 10(23C)(vi) of the Act was considered and allowed. Both the orders are placed in paper book at pages 49 and 47 respectively. Ld. Counsel further referred to the intimation issued u/s. 143(1) of the Act for AY 2019-20 and 2020-21 i.e. the years subsequent to the impugned order under consideration placed at pages 55 and 59 of the paper book to point out that assessee had claimed exemption u/s. 10(23C)(iiiab) of the Act in the return which has been accepted and processed by the department.

6.1. By referring to all these documents, Ld. Counsel emphasized on the fact that assessee had always been claiming exemption u/s. 10(23C)(iiiab) of the act. However, in the impugned year under consideration, inadvertently while filing the return, the claim was made u/s. 10(23C)(vi) of the Act. He also submitted that a rectification application was filed to correct the inadvertent mistake by making claim of exemption under the correct section of 10(23C)(iiiab) of the Act which has been unjustifiably rejected. Thus, in view of all the above processing and assessment in the assessee's own case of the preceding as well as subsequent assessment years, Ld. Counsel emphasized that Rule of Consistency ought to be applied and there is no reason to deviate from the view which has already been taken. Since there is no change in the facts and the applicable law, there is no occasion for the ld. AO to take a different view from that adopted in the above referred proceeding.

6.2 Ld. Counsel also submitted that he had evidently demonstrated that the mistake is a mistake apparent from record which is rectifiable u/s. 154 of the Act merely because assessee has claimed exemption under a wrong provision to which it is otherwise entitled to. He submitted that Ld. AO ought to have accepted the apparent mistake by accepting the claim u/s. 10(23C)(iiiab) of the Act. In this respect, he also referred to the CBDT Circular No. 14 (XL35) of 1955 dated 11.04.1955 and submitted that it is the duty of the officers of the department to assess the tax payer in every reasonable way, particularly in the matter of claiming and securing relief and in this regard the officers should take initiative in guiding a taxpayer where the proceedings before them indicate that some refund or relief is due to him. He also stated that it is mandated that the officers of the department should not take advantage of ignorance of an assessee as to his rights.

6.3. Ld. Counsel placed reliance on the decision of coordinate bench of ITAT, Lucknow in the case of *Desh Bharti public School Samiti Vs. DCIT (2022) 139 taxmann.com 231 (Luck)* wherein similar issue was dealt in. Head Note of the said decision is reproduced as under:

“Where assessee, a trust, in earlier years had been claiming exemption under section 10(23C) and it got registration under section 12A on 2.9.2014 and it in return filed for assessment year 2014-15 claimed exempt income under section 10(23C) instead of claiming same under section 12A, mistake had occurred as a human error and thus Assessing Officer was to be directed to allow exemption under section 12A.”

7. *Per contra, the Ld. CIT, DR placed reliance on the order of the Ld. CIT(A).*

8. *We have heard the rival submissions, perused the material available on record and gone through the documents placed in the paper book referred by the Ld. Counsel. Admittedly, it is undisputed that assessee had been imparting education and has been claiming exemption u/s. 10(23C)(iiiab) of the Act which has been considered and allowed in the preceding as well as in the subsequent assessment years vis-à-vis the impugned year under consideration either in the intimation issued u/s. 143(1) of the Act or assessment completed u/s. 143(3) of the Act. Ld. Counsel has evidently demonstrated that it was an inadvertent mistake which occurred at the end of the assessee in the filing of return where the claim of exemption was made u/s. 10(23C)(vi) of the Act instead of section 10(23C)(iiiab) of the Act. It is also noted that upon receiving intimation u/s. 143(1) of the Act wherein the inadvertent claim made u/s. 10(23C)(vi) was disallowed and remedial measure was taken by the assessee by filing an application u/s. 154 for rectifying the mistake by making a claim under the correct section of sec. 10(23C)(iiiab) of the Act. We note that assessee had been consistently claiming exemption u/s. 10(23C)(iiiab) of the Act. Considering thi ITAT Lucknow in the case of Desh Bharti public School Samiti (supra), we note that mistake apparent from record is rectifiable under the provisions of section 154 of the Act which in the present case ought to have been allowed as claimed by the assessee. Accordingly, we set aside the finding of the Ld. CIT(A) and direct the Ld. AO to allow the claim of the assessee by applying the provisions of section 10(23C)(iiiab) of the Act. Accordingly, grounds taken by the assessee in this respect are allowed.”*

(C.2) The Ld. Authorized Representative for the assessee further submitted that the assessee would have no objection if the eligibility of the assessee for exemption u/s 10(23C)(iiiad) of I.T. Act is examined by the Assessing Officer, and for this purpose the issue may be remanded to the file of the Assessing Officer.

(C.2.1) The Ld. Departmental Representative for the Revenue supported the aforesaid order dated 22.06.2020 passed u/s 154 of I.T. Act and the aforesaid impugned appellate order dated 23.09.2025 of the Ld. CIT(A).

(D) We have heard both sides. We have perused the materials on record. **The processing of returns and issuance of intimation u/s 143(1) of I.T Act is a computerized process in which there is no application of human mind. However, an order passed for disposal of the assessee’s application for rectification u/s 154 of the Act as well as the order passed by the learned CIT(A), are outcomes of due application of**

**human mind by concerned authorities. These orders cannot be passed mechanically without considering the facts and circumstances of the case and the material brought on record by the assessee. There is a qualitative distinction between a computerized process, such as processing and issuance of intimation under section 143(1) of the Act, and orders that are required to be passed after due application of mind by statutory authorities, such as an order under section 154 of the Act or an appellate order passed by the learned CIT(A). Merely because the assessee's claim for exemption was rejected under section 143(1) of the Act in a mechanical manner by the computerized system, owing to an inadvertent mistake in quoting the correct provision; the authorities deciding the rectification application under section 154 and the appeal proceedings are not bound by such automated and mechanical outcome. The provisions of section 143(1) of the Act are meant for making *prima facie* adjustments, based on return filed by the assessee. However, the order u/s 154 of the Act and appellate proceedings before the Ld. CIT(A) are to be passed after due application of mind and after consideration of all facts that are brought on record and further materials discovered after investigation of facts of the case if required.** In the present case, during the rectification proceedings u/s 154 of the Act and also during the appellate proceedings before the learned CIT(A), the assessee pleaded for claim of exemption under section 10(23C)(iiiad) of the Act. However, the authorities rejected the assessee's claim mechanically relying upon the outcome of the computerized processing u/s 143(1) of the Act, without proper consideration of the materials on record and without considering assessee's claim for exemption u/s 10(23C)(iiiad) of I.T. Act. The principle laid

down by Income Tax Appellate Tribunal in the case of *Desh Bharti Public School Samiti vs. DCIT* (supra), as well as in the case of *The University of Burdwan vs. ACIT* (supra); referred to in foregoing paragraph (C) and (C.1) of this order support the case of the assessee.

(D.1) We take further cognizance of Central Board of Direct Taxes Circular No. 14 (XL-35) of 1955 dated 11.04.1955, to which our attention was drawn by the Ld. Authorized Representative for the assessee which is binding on the Revenue authorities as it is a beneficial circular in favour of the assessee. It is well settled that circulars of CBDT which are beneficial to the assessee, are binding on Revenue Authorities. The relevant portion of the circular is reproduced below for emphasis and ready reference: -

*“Officers of the Department must not take advantage of ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard the Officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him. This attitude would, in the long run, benefit the Department for it would inspire confidence in him that he may be sure of getting a square deal from the Department. Although, therefore, the responsibility for claiming refunds and reliefs rests with assessees on whom it is imposed by law, officers should*

*(a) Draw their attention to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other;*

*(b) Freely advise them when approached by them as to their rights and liabilities and as to the procedure to be adopted for claiming refunds and reliefs.”*

(D.2) However, we are conscious of the fact that the assessee's claim for exemption u/s 10(23C)(iiiad) of the I. T. Act has not been examined on merits by the authorities of the Income Tax Department while passing the order under section 154 of the Act and the impugned appellate order of the Ld. CIT(A). The authorities have merely followed the outcome of the mechanical and computerized processing of the return under section 143(1) of the Act. We also take note of the submissions made by the Ld.

Authorized Representative for the assessee as discussed in foregoing paragraph (C.2) of this order. The assessee itself made a mistake, claimed to be an inadvertent typographical mistake in wrongly claiming exemption u/s 10(23C)(iv) instead of correct section u/s 10(23C)(iiiad) of the Act. At this stage, the assessee should not be permitted to get benefit of exemption u/s 10(23C)(iiiad) of I.T Act without satisfactorily showing that the assessee meets the eligibility conditions for exemption u/s 10(23C)(iiiad) of the Act.

(D.2.1) In view of the foregoing, the impugned appellate order of the Ld. CIT(A) is set aside and the matter relating to the assessee's claim for exemption u/s 10(23C)(iiiad) of the I.T Act is remanded to the file of the Assessing Officer, with a direction to pass an appropriate order in accordance with law after examining the merits of the assessee's claim u/s 10(23C)(iiiad) of the Act and after providing reasonable opportunity of being heard to the assessee. The Assessing Officer is directed to allow the assessee's claim for exempted income; if the assessee meets the eligibility requirements on merits; without being influenced by the outcome of the processing u/s 143(1) of I.T. Act and by outcome of the assessee's application for rectification disposed of by aforesaid order. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced in the open Court on 17/02/2026.

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER

DATED: 17/02/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

By order

//True Copy//